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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1403-3 PCT US (OPP20060845US)

Application Number

10/578,113

Filed

January 8, 2007

First Named Inventor

Ae-Soon PARK et al.

Art Unit

2617

Examiner

HWANG, Stamford

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

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Registration number _____

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



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February 14, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

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Attorney Docket No: 1403-3 PCT US (OPP20060845 US)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Park, Ae-Soon et al.

GROUP ART UNIT: 2617

APPLN NO: 10/578,113

EXAMINER: HWANG, Stamford

FILING DATE: January 8, 2007

DATED: February 14, 2011

FOR: **METHOD FOR AUTHENTICATING SUBSCRIBER
STATION, METHOD FOR CONFIGURING PROTOCOL
THEREOF, AND APPARATUS THEREOF IN WIRELESS
PORTABLE INTERNET SYSTEM**

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office Action dated October 12, 2010 and the Advisory Action dated January 11, 2011, please consider the following remarks.

REMARKS

Claims 25-47 are currently pending in the application. Claims 25-27, 30-31, 33-36, and 39-47 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0163733 to Barriga-Caceres et al. (hereinafter, "Barriga"). Claims 28-29, 32, and 37-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barriga in view of U.S. Patent No. 7,272,381 to Aura.

As an initial matter, the Examiner's Response to Arguments merely states that Applicants' Arguments have been considered, but are moot in view of the new ground(s) of rejection. (Final Office Action, page 2). However, the present rejections are nearly identical to those of the June 25, 2010 Office Action. Further, the Examiner has failed to answer all material traversed, pursuant to MPEP §707.07(f), by failing to address the argument that Barriga fails to teach SBQ-REQ, SBC-RSP, PKM-REQ, and PKM-RSP messages. Since the present Office Action has failed to meet the requirements of MPEP §707.07(f), the Office Action is not complete as to all matters, and is therefore improper.

Regarding the §102(e) rejection of Claim 25, at the very least, Barriga does not teach "transmitting a subscriber station basic capability negotiation request (SBC- REQ) message to the base station, the SBC-REQ message including information on at least one authentication mode than can be supported by the subscriber station." The Examiner asserts that the message labeled "Select Method" in step C-503 of FIG. 5B of Barriga corresponds to the SBC-REQ message of Claim 25. (Final Office Action, page 3, lines 1-6, citing Barriga at paragraph [0101] and FIG. 5B). However, Claim 25 does not merely refer to transmitting an authentication mode selected by a user, but more specifically requires that information on at least one authentication mode is transmitted through an SBC-REQ message. Barriga does not teach that the message of step C-503 is an SBC-REQ message and further does not include any reference to an SBC-REQ message, and

thus fails to teach the above-quoted limitation.

Further, Barriga does not teach “receiving a subscriber station basic capability negotiation response (SBC-RSP) message including information on an authentication mode that is selected by the base station among the at least one authentication mode.” The Examiner asserts that the message labeled “Credent. Required” in step C-504 of FIG. 5B of Barriga corresponds to the SBC-RSP message of Claim 25. (Final Office Action, page 3, lines 7-15, citing Barriga at paragraph [0101] and FIG. 5B). However, Barriga merely labels step C-504 as “Credent. Required” in FIG. 5B, but includes no statements regarding the form or content of the message transmitted in step C-504. Barriga does not teach that the message of step C-504 is an SBC-RSP message, does not teach that the message includes information of an authentication mode, or a mode selected by the base station. Even the Examiner’s own statements concede that selection of the authentication mode in Barriga is instead performed by a user. (Final Office Action, page 3, lines 10-11). The Examiner’s later assertion that the base station picks an authentication mode lacks any support. In the Advisory Action dated January 11, 2011, the Examiner concedes that Barriga “does not teach the naming of these messages,” but asserts that messages of Barriga perform the same functions. However, functional equivalence is not enough to show anticipation of a structural component. (*See In re Ruskin*, 347 F.2d 843, 846 (CCPA 1965)). However, the Examiner has failed to assert that the messages of Barriga have same corresponding message structures as the named messages recited in the claims. For at least the reasons stated above, Claim 25 is not anticipated by Barriga.

Regarding the §102(b) rejection of Claims 33 and 41, which include limitations similar to those discussed above regarding Claim 25, these claims are not anticipated by Barriga for at least the reasons stated above regarding Claim 25.

Regarding the §102(b) rejection of Claim 39, at the very least, Barriga fails to

teach “wherein the message parser is further configured to receive an authentication request from the subscriber station by receiving a privacy key management request (PKM-REQ) message having a message type according to the selected authentication mode.” The Examiner asserts that step C-505 of FIG. 5B of Barriga corresponds to the PKM-REQ message of Claim 39. (Final Office Action, page 8, citing Barriga at paragraph [0101] and FIG. 5B). However, Barriga does not teach that the Credentials message of step C-505 is a PKM-REQ message. Further, Barriga does not include any reference to a PKM-REQ message. Therefore, Barriga does not teach the above-quoted limitation arranged or combined in the same manner as recited in the claim.

Further, Barriga fails to teach “wherein the authentication reply message generator is further configured to transmit a privacy key management response (PKM-RSP) message having a message type according to the selected authentication mode to the subscriber station in response to the authentication request.” The rejection asserts that step C-513 of FIG. 5B or steps C-25 or C-29 of FIG. 5C corresponds to the PKM-RSP message of Claim 39. (Final Office Action, page 8, citing Barriga at FIGs. 5B-5C). However, Barriga does not teach that the Credentials messages of steps C-513, C-25, or C-29 are PKM-REQ messages. Further, Barriga does not include any reference to a PKM-RSP message, and more specifically does not teach a PKM-RSP message having a message type according to a selected authentication mode. Therefore, Barriga fails to teach the above-quoted limitation of Claim 39.

Claim 39 includes limitations similar to Claims 25, 33, and 41 with respect to the information communicated through the SBC-REQ and SBC-RSP messages. Therefore, Barriga does not anticipate Claim 39 for at least the reasons stated above regarding these claims.

Regarding the §102(b) rejection of Claims 44 and 46, which include limitations

similar to Claim 39, including PKM-REQ and PKM-RSP messages, Barriga fails to anticipate these claims for at least the reasons stated above regarding Claim 39.

Regarding the §102(b) rejection of Claim 26, the Examiner asserts that the IMSI of Barriga is a parameter for selecting an authentication mode. (Final Office Action, page 3, citing Barriga at paragraph [0101]). However, Barriga merely states that an IMSI is an identity to be presented in step C-505, after a user has already chosen to be authenticated via a SIM card in step C-503. Therefore, Barriga does not teach that the IMSI is included in step C-503, which the Examiner compares with the PKM-REQ message in the rejection of Claim 25. Further, Barriga merely states that the IMSI is an identity, but does not teach that the IMSI is used as a parameter for selecting an authentication mode. Therefore, Barriga fails to anticipate Claim 26.

For at least the reasons stated above, Barriga fails to teach all of the limitations of independent Claims 25, 33, 39, 41, 44, and 46. Accordingly, withdrawal of the §102(b) rejection of these claims is respectfully requested. Claims 26-32, 34-38, 40, 42-43, 45, and 47 are believed to be in condition for allowance for at least the reasons given above with regard to their respective independent claims. Accordingly, all of the claims pending in the Application are believed to be in condition for allowance.

Respectfully submitted,



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